

On October 20, 2006, Plaintiff filed a “Complaint” (Document No. 1) in this Court seeking review of the final decision of the Commissioner finding that Plaintiff was not entitled to a Period of Disability and Disability Insurance Benefit and Supplemental Security Income. On December 20, 2006, the Defendant moved for remand pursuant to sentence six of 42 U.S.C. § 405(g). The Defendant based its voluntary request to remand on the fact that the Office of Disability Adjudication and Review (ODAR) was unable to locate the Administrative Law Judge’s decision dated August 25, 2003. The Court granted the motion to remand on January 17,

2007.

In its pending motion, Defendant has informed the Court that the decision of the Administrative Law Judge (“ALJ”) has been recovered and a certified transcript prepared and submitted to the Court. Defendant contends that the previous “Order” to remand (Document No. 9) should now be vacated and the case reinstated.

Plaintiff by response has objected and contends that “in the interest of fairness and justice” the motion should be denied.

The undersigned finds no reason that the reinstatement of this case will cause a violation of the interests of fairness and justice. To the contrary, it is a better use of the Court’s resources, and best facilitates fairness and justice for this case to move forward rather than to be remanded to re-create a record that has been recovered.

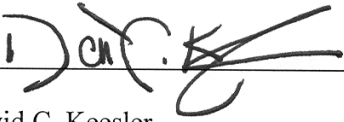
IT IS, THEREFORE, ORDERED that Defendant’s “Motion to Vacate...” (Document No. 10) is **GRANTED**.

IT IS FURTHER ORDERED that the “Pretrial Scheduling Order” (Document No. 13) issued prematurely on July 18, 2007 shall be revised to reflect that:

1. Plaintiff shall file a Motion for Summary Judgment and supporting memorandum of law within 60 days of the filing of this Order; and
2. The Commissioner shall file his Memorandum of Law in Opposition no later than 60 days from service of the Plaintiff’s motion and supporting memorandum.

SO ORDERED.

Signed: August 2, 2007



David C. Keesler
United States Magistrate Judge

